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Mr. W.F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

November 9, 1993

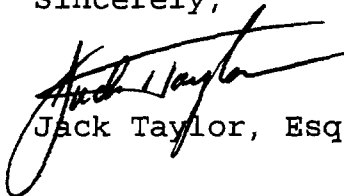
Re: Comments of InterDigital Communication Corporation
in PP Docket 93-253

Dear Mr. Caton:

Transmitted herewith are an original and four copies of the comments of InterDigital Communications Corporation in the above referenced proceeding.

If you have any questions with regard to this matter, please do not hesitate to contact me.

Sincerely,


Jack Taylor, Esq.

9215 Rancho Drive
Elk Grove, CA 95624
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Implementation of Section 309(j))
of the Communications Act) PP Docket No. 93-253
Competitive Bidding)

To: The Commission

COMMENTS OF INTERDIGITAL COMMUNICATIONS CORPORATION

I. INTRODUCTION

InterDigital Communications Corporation ("InterDigital") respectfully submits these comments in the above captioned proceeding. InterDigital is a wireless technology manufacturer that has developed an advanced spectrum efficient digital radio system which operates to provide radio loops between telephone central offices and customer premises. The service provided by telephone companies is Basic Exchange Telecommunications Service (BETRS) which operates under the current FCC rules¹

InterDigital's advanced digital radio system called the Ultraphone, is based on digital Time Division Multiple Access (TDMA) techniques which allow multiple users to simultaneously share a single radio channel. The Ultraphone is the most

¹ See 47 C.F.R. Section 22.600 - 22.610 contains rules governing the licensing and operations of stations in the Rural Radio Service which includes Basic Exchange Telecommunications Radio Service (BETRS).

sophisticated digital radio system currently available to telephone companies for the provision of radio loops in rural areas.

InterDigital is the leading supplier of BETRS equipment to the telephone industry and has over six and a half years of direct experience in the engineering and installation of BETRS systems. The first BETRS system in the U.S. was installed in rural Wyoming in the Fall of 1986. Since then, hundreds of systems have been installed throughout the U.S. providing thousands of rural telephone lines to telephone company customers. Without access to BETRS technology, many of these customers would have been denied access to the telephone network.

II DISCUSSION

In the Notice of Proposed Rule Making ("Notice") issued in the above-captioned proceeding, the Commission proposes to implement competitive bidding to award licenses for use of the radio spectrum. The Commission specifically asks, inter alia, for comments on whether BETRS satisfies the criteria for services subject to competitive bidding. The short answer is a resounding no.

In the notice, the FCC proposes using auctions only if:

- (1) It is awarding an initial license;
- (2) There are mutually exclusive applicants; and
- (3) The principal use of the spectrum is to provide service to subscribers for compensation²

² See notice at paras 22-23.

Further, the notice identifies several conditions which must be met before competitive bidding could be used to select licensees and whether the use of competitive bidding would advance several objectives³ like promoting economic opportunity, technology development and efficient use of the spectrum.

The initial criteria to be met is whether there is mutual exclusivity among applicants for licenses. BETRS by its very nature is provided by a monopoly telephone company providing the radio-based telephone service under a state granted franchise. Only if a state public service commission would allow competition for basic service, would BETRS fall under this criterion. So far, basic telephone service (especially in rural areas) has not been opened to competition and therefore, there is no competition for a BETRS license.

The next major criteria is that the licensee provide service to subscribers for compensation. It is clear that the objective of the telephone company is to provide telephone service in the most efficient manner. It is not the objective to receive compensation. In fact, most BETRS subscribers receive service at below cost.

The principal use of BETRS spectrum is to allow rural telephone customers to access the telephone network in the most efficient and effective (and in some cases only) manner possible.

³See notice at para. 12.

The objective advanced by the use of BETRS is the obvious, and overriding public interest in furthering universal service and improving the quality basic telephone service in rural America. BETRS is not a "for profit" service. It is intended mainly to lower the overall cost of (and therefore subsidies to) rural basic telephone service.

As noted in the NPRM,⁴ BETRS is used to provide "a multiplexed digital radio link ... as the last segment of the local loop." These loops are used to provide basic telephone service in rural areas where the cost of wire would be prohibitive. Local exchange carriers (LECs) typically have an obligation to provide basic "plain old telephone service" (POTS) throughout their certificated exchange areas. They must therefore extend service to local subscribers even though the marginal costs to the LECs of such service far outstrips the revenue produced by providing that service. To compensate for this forced high cost service, the local exchange carriers are, of course, entitled to include these costs in their regulated rate base, and to recover an averaged rate of return over that base.

A certificated telephone company normally provides telephone service on a state-wide averaged basis under tariffed rates approved by the state utility commission. Various state and Federal mechanisms exist to assist rural telephone companies to keep the costs of telephone service within reach of all subscribers.

⁴See notice at para. 165.

As a result, basic telephone service (BETRS or wireline) is normally priced below embedded cost.

Accordingly, BETRS, is an extension of, and an economic alternative to, the wire-based infrastructure of telephone companies. Its purpose is to lower the cost of loops and therefore drive down the overall average cost of telephone service. BETRS helps to hold down local telephone rates, reduce the nationwide subsidies needed from such mechanisms and to help ensure universal service at affordable rates. The very nature of BETRS is adverse to the profit maximizing objective of the commercial radio services. The objective of achieving affordable rates in rural areas would be undermined by the inclusion of BETRS in spectrum auctions.

In the notice the Commission comments that⁵ they do not anticipate mutually exclusive applications for BETRS because BETRS is limited to certificated carriers with franchised service areas. However, they note that because BETRS share the same channels with pagers, mutually exclusive applications for the same channels could occur.

This points up a major concern in the use of frequencies. Telephone companies only have access to 26 channels throughout the U.S. to provide BETRS. Pagers, by contrast have access to hundreds of channels most of which lie fallow in rural areas. If mutually exclusive applications for the same BETRS frequency are

⁵ See notice at pg. 55, footnote 174.

filed by a telephone company and a paging company, it would be bad public policy to permit the "for profit" pager to buy the channel and deny access to the telephone network for rural customers of the telephone company.

III CONCLUSION

BETRS does not fall into the "for profit" category of radio services which are appropriate for competitive bidding.

The Commission can send a positive message to rural America that advanced radio technology may continue to be used to aid in providing affordable telephone service in rural areas by excluding BETRS from the services licensed by competitive bidding.

Respectfully submitted,

InterDigital Comm. Corp.

By:



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Its Attorney